

BEFORE THE INSURANCE COMMISSIONER
FOR THE STATE OF ARKANSAS

IN THE MATTER OF
MR. EUTHON O. "PAT" TOUNZEN, JR.
LICENSE NO. 287633

A.I.D. NO. 2006- 045

EMERGENCY SUSPENSION
AND CEASE AND DESIST ORDER

On this day, the emergency matter of MR. EUTHON O. "PAT" TOUNZEN, JR ("Respondent"), of Little Rock, Arkansas, an Arkansas resident insurance producer with resident insurance producer license #287633, came before Julie Benafield Bowman, Arkansas Insurance Commissioner, as presented by the Arkansas Insurance Department ("Department"), represented by Ms. Jean Langford, Chief Counsel – Legal Division of the Department. From the facts and matters before the Insurance Commissioner, the Insurance Commissioner finds as follows.

1. That the Insurance Commissioner has jurisdiction over the parties and subject matter pursuant to Ark. Code Ann. §23-61-103, §§23-63-201, et seq., §§23-64-501, et seq., and other laws. The Commissioner has full authority to issue emergency license suspensions for Arkansas resident insurance producers under Ark. Code Ann. §23-64-216(e) (Supp. 2005) and under the Arkansas Administrative Procedure Act at Ark. Code Ann. §25-15-211(c).

2. That Respondent's current addresses of record at the Department, business and residence, the Department, list 11901 Pleasant Ridge Road 312, Little Rock, Arkansas. Respondent was hired on December 3, 2002, by Trinity Universal Insurance Company ("Trinity"), NAIC #19887. Trinity is one of the operating companies of Unitrin Business Insurance, then doing business as Unitrin Multi-Lines Insurance. UNITRIN records indicate that Respondent was discharged by Trinity on July 20, 2006. At the time of his discharge, Respondent held the position of Account Executive with responsibilities which included the State of Arkansas, and was under the supervision of a regional Vice President. UNITRIN Insurance Group ("UNITRIN") in Arkansas operates through various licensed insurers including UNITRIN Auto and Home Insurance Company, NAIC #16063, and UNITRIN Preferred Insurance Company, NAIC #25909, among others. In his position as a UNITRIN underwriter, Respondent was routinely and frequently contacted by Arkansas resident insurance agents and producers, accustomed to working with UNTRIN, about their clients' needs for specific insurance coverages. Respondent, thus supplied by those local Arkansas producers with identifying personal, sensitive, and private information about Arkansas consumers or businesses, placed/processed for issuance UNITRIN policies of insurance suitable for the Arkansas policyholders.

3. That, while with UNITRIN, Respondent took required annual courses. UNITRIN's *Essential Standards of Conduct for all Employees* has been copied to

the Department. The sections therein noted by UNITRIN discuss principles addressing proper use of company assets, and expressing the requirement of maintaining customer confidentiality. These standards are the subject of annual training for all employees and, as noted by the samples UNITRIN provided to the Department, they have been acknowledged and agreed to by Respondent during his employment. The ethics courses are required for market underwriters by UNITRIN.

4. That in 2005, pursuant to Department records, Respondent sought and obtained Arkansas original insurance producers' licenses for property, casualty, surety and marine insurance.

5. That, following his UNITRIN termination on August 3, 2006, Respondent was appointed on Department records to represent his current employer, Steve Standridge Ins., Inc., at Mount Ida (one of several affiliate agencies or branches), a licensed Arkansas resident insurance agency (producer) with resident license number 245609.

6. That the Department has been contacted and has started an investigation of Respondent's alleged insurance misconduct, commencing during and immediately after his 2006 termination from UNITRIN. In the course of his job as an underwriter, Respondent had access to confidential data and information submitted to UNITRIN by producers in this state.

7. That it appears Respondent left UNITRIN, taking with him the UNITRIN confidential and personal clientele information he had received in his previous capacity as a UNITRIN underwriter. No permission had been granted by UNITRIN, by the Arkansas insurance producers of record, or by the Arkansas consumers involved for Respondent to retain this information after leaving UNITRIN. Respondent is allegedly now “shopping” that UNITRIN proprietary information to a number of insurance companies, as non-affiliated third parties. in his new capacity as an insurance producer. Respondent is allegedly using that information he wrongfully took or retained from UNITRIN.

8. That in some cases, Respondent is alleged to have used consumer personal and non-public information to solicit and sell insurance policies without any actual prior contact with, or consent of the Arkansas consumers.

9. That one complainant to the Department, a local Little Rock insurance agency on behalf of R & R Contracting, Inc., of Caldwell, Arkansas, filed its formal complaint with the Department on October 10, 2006, alleging that:

a) Respondent, representing Steve Standridge Ins., Inc., stated in a recent e-mail (copy provided to the Department), that he was working out of the Agency’s Benton, Arkansas office at Herzfeld Insurance Agency, Inc., an Arkansas resident agency with Department license #24738, also owned by or affiliated with Steve Standridge or his other insurance agencies or branches.

b) Respondent on July 20, 2006, submitted to R & R Contracting, Inc. (“R and R”) information identical to that previously submitted to UNITRIN by R and R’s current agent, The Cashion Company. That information included confidential and non-public information taken from UNITRIN’s file, including a FEIN number, payroll figures, sales figures, employee names, dates of birth, drivers’ license information and/or Social Security numbers. The information contained in the initial submission to UNITRIN by The Cashion Company, Little Rock, Arkansas, is confidential and non-public information for R and R. Respondent, who is not the official agent of record for R and R, should not have had access to that information after leaving UNITRIN. Among other laws and professional and ethical principles, Respondent’s use of such information is a violation of the Department privacy laws and Rule 74, covering use of confidential or financial information of consumers.

10. That, as a result of Respondent’s improper actions with the UNITRIN data, R and R and other affected Arkansas consumers have called or otherwise contacted their local insurance producers about Respondent. The producers of record are now working with UNITRIN representatives. UNITRIN sent a letter dated September 7, 2006, about this matter to Respondent, but it appears that Respondent has not complied with that letter. After sending the letter, other information surfaced with respect to Respondent’s actions in this regard. Upon discovery that Respondent accessed and retained and is now using proprietary and

sensitive information on UNITRIN customers in this state without consent, UNITRIN officials and Arkansas producers contacted the Department..

11. That confidential and non-public personal file data, information, documents, and materials in hard copy or electronic form of the Arkansas consumers involved includes personal and business names, addresses (mail and electronic mail), Social Security numbers and/or Federal Identification (“FEIN”) numbers, risk profiles, financial information on individuals and businesses, payroll information, vehicle identification (“VIN”) numbers, Arkansas drivers’ license numbers and Arkansas drivers’ license histories, policy loss and loss adjustment expense information, credit scores, information obtained from credit bureau reports in addition to payment histories and loan information, and similar financial or credit-worthiness data.

12. Various laws address requirements for privacy to be afforded consumers’ sensitive and non-public information. Title V of Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102, and Arkansas Insurance Department Rules 74 and 77, all prohibit release of confidential consumer data to third parties (making otherwise personal non-public information be public) without prior consent of the consumer. More specifically, Ark. Code Ann. §23-61-113 (Supp. 2005), which in subsection (a) states: “No person shall disclose any nonpublic personal information contrary to the provisions of Title V of Gramm-Leach-Bliley Act of 1999, Pub. .No. 106-102.” Subsection (b) authorized the Insurance Commissioner

to adopt rules and states: "...governing the treatment of consumer financial and protected health information by all licensed insurers, health maintenance organizations, or other insuring health entities regulated by the commissioner, producers, or other persons licensed or required to be licensed....". In his conduct as described in this Order, Respondent was not authorized by UNITRIN or the Arkansas consumers affected to have the subject data and information. Respondent was not authorized to use that data, and thus Respondent has not handled consumers' non-public, personal information as Federal laws and Arkansas Insurance Department Rules require.

13. That the actions of Respondent, as described in the preceding paragraphs, are in violation of applicable Federal and state laws and rules on privacy, including Ark. Code Ann. §23-61-113 (Supp. 2005), and the Department's companion Department Privacy Rules 74 and 77, as well as Sections 501, 505 (b), and 507 of the Federal Gramm-Leach-Bliley Act, codified at 15 U.S.C. §6801, §6805(b) and §6807. Additionally, Respondent has violated the continuing Arkansas license eligibility grounds specified in Ark. Code Ann. §23-64-216(a)(1) (Supp. 2005) and §23-64-512(a) (2),(4),(7),(8) (Supp. 2005); Respondent's improper actions and his means of doing business in the above stated manner are determined to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance; and are deemed a trade practice violation pursuant to Ark. Code Ann. §23-66-205.

IT IS THEREFORE ORDERED that:

A. Due to the gravity of the charges against Respondent involving a breach of confidential and proprietary policyholder insurance account data, it is found that a public emergency exists for the immediate suspension of the Arkansas resident producer licenses issued to Respondent by the Department, pending further Department investigations and administrative proceedings.

B. Therefore, it is hereby ordered that all insurance licenses held by Respondent and issued by the Department shall be suspended effective immediately upon Respondent's receipt of this Order until the effective date of the Insurance Commissioner's next Order.

C. Respondent shall immediately cease and desist any and all solicitation, sale, or replacement of the UNITRIN insurance business under his licenses as an insurance producer.

D. Respondent shall immediately cease and desist using the confidential and proprietary information he obtained from UNITRIN.

E. Respondent may continue to service consumers whose insurance products were issued without the use of the non-public, confidential information he obtained from UNITRIN.

F. Respondent is immediately directed not to copy (manually or electronically), telecopy, image, scan, photocopy, photograph, fabricate, replicate, or otherwise retain any UNITRIN data, files, policyholder documents, materials,

electronic documents, correspondence or notes, either for his own files or his future use. Respondent is immediately directed not to allow any person access to review, copy, scan, image, photograph, or e-mail any UNITRIN information or data in his possession. “Any person” in this context includes personnel of the Herzfield Agency, or any of the Steve Standridge Agency’s licensed, appointed producers, personnel, clerical staff, or any other individual.

G. Within 24 hours of receipt of this Order and in no event later than close of business Monday, October 16, 2006, Respondent is directed immediately to make available for collection all UNITRIN file information and data in any media or format, and shall surrender those materials to Ms. Mary Coney, the Chief Investigator in the Legal Division on the 3rd floor of the Arkansas Insurance Department in Little Rock, Arkansas; and shall do so without reservation or evasion, including all originals or duplicate originals or copies or imaged records of UNITRIN.

H. The Department shall notify UNITRIN and Respondent’s appointing companies of this Order and the emergency action taken under ACA §23-64-217(a)(3) (Supp. 2005).

I. Respondent shall be afforded a Show Cause Hearing and all other statutory rights and remedies by law, under the Administrative Procedure Act at Ark. Code Ann. §§25-15-201, et seq., or the Insurance Code at Ark. Code Ann. §§23-61-301, et seq., generally, as well as Ark. Code Ann. §23-64-216 (Supp.

2005) and §23-64-512 (Supp. 2005), among other laws or rules, to allow Respondent a full opportunity to be heard with respect to these allegations in an administrative hearing before the Insurance Commissioner.

IT IS SO ORDERED this 13th day of October 2006.



**JULIE BENAFIELD BOWMAN
INSURANCE COMMISSIONER
STATE OF ARKANSAS**